

PATENT APPLICATION
Attorney Docket: 722-72
Response under 37 CFR 1.116
Expedited Procedure – Examining Art Group 3728

REMARKS

Claims 21-23 are the pending claims. In the Office Action, Claims 21-23 were rejected under 35 U.S.C. § 102(b) as being anticipated by Linnemann (UK 2014034).

The pending independent claim is Claim 21, which was rejected as allegedly being anticipated by Linnemann. We respectfully disagree, and believe that the Examiner is incorrect at least in regard to the assertion that the upper of Linnemann “would **inherently** have a bottom portion that is perpendicular to a bottom edge of the upper,” as stated at the bottom of page 2 of the Office Action.

Contrary to the Examiner’s assertion of what is inherent in Linnemann, nowhere does Linnemann disclose *an upper bent to form a bottom portion that is **perpendicular to a bottom edge of the upper***, as in Claim 21.

In the Office Action, the Examiner directs our attention to Figures 3-6 and 8-10 of Linnemann. Figure 5 of Linnemann is a separate embodiment from Figures 3, 4 and 6. Figure 5 is not applicable at least because “Fig. 5 shows a sole 1 intended for a sandal. ... Consequently, there is no need to provide a raised border inside the upper as in the other embodiments.” (Page 2, lines 106-113 of Linnemann.) Like Figure 5, Figures 8-10 are also not applicable.

Figures 3, 4 and 6 of Linnemann also fail to anticipate the pending claims, at least because Figures 3, 4 and 6 of Linnemann clearly show an angle that is greater than 90°. As commonly known, a 90° angle is required for two surfaces to be perpendicular, as in pending Claim 21.

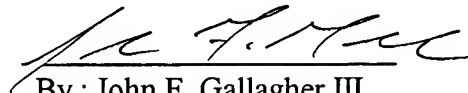
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For at least the above reasons, Linnemann fails to anticipate Claim 21, and the rejection should be withdrawn.

Accordingly, allowance of the pending claims, i.e. Claims 21-23, is respectfully requested. Should the Examiner feel that a telephone conference or personal interview will facilitate resolution of any remaining matters, the Examiner is respectfully requested to contact the undersigned at the number indicated below.

Respectfully submitted,
DILWORTH & BARRESE, LLP

DILWORTH & BARRESE, LLP
333 Earle Ovington Blvd.
Uniondale, NY 11553
(516) 228-8484


By : John F. Gallagher III
Reg No. 47,234
Attorney for Applicant(s)